

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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Mail Processing Network Rationalization  
Service Changes, 2012

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Docket No. N2012-1

AMERICAN POSTAL WORKERS UNION, AFL-CIO,  
MOTION FOR IMMEDIATE ACCESS TO  
NON-PUBLIC INFORMATION IDENTIFIED  
AS USPS-LR-N2012-1/NP9  
(April 6, 2012)

Pursuant to 39 CFR 3007.40 and Rule 21 of the Commission's Rules of Practice and Procedure, the American Postal Workers Union, AFL-CIO (APWU) hereby moves for immediate access to Postal Service Library Reference USPS-LR-N2012-1/NP9, Materials Responsive to Interrogatory PR/USPS-T3-29 (Non-Public Version of USPS-LR-N2012-1/71).

The Postal Service submitted Library Reference USPS-LR-N2012-1/NP9 on March 30, 2012, accompanied by an Application for non-public treatment. In its Application, the Postal Service states that the materials in this Library Reference "consist of data that reveal facility specific fiscal year volumes of either (a) single-piece First-Class canceled in the Advanced Facer Canceler System (AFCS) operation at specific postal mail processing facilities or (b) First-Class Mail and/or Standard Mail volumes processed in the Delivery Barcode Sorter operations at those facilities"<sup>1</sup> The Postal Service states that if this information "were to be disclosed publicly, [it] considers that it is quite likely that it would suffer commercial harm."<sup>2</sup> The Postal Service asserts that "[u]nder good business practice, [this information] would not be disclosed publicly."<sup>3</sup> The Postal Service further asserts "that materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products,

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<sup>1</sup> Application of United States Postal Service for Non-Public Treatment of Library Reference USPS-LR-N2012-1/NP9 (March 30, 2012).

<sup>2</sup> Id. at 4.

<sup>3</sup> Id. at 3.

as well as their consultants and attorneys” and actual or potential customers of the Postal Service for competitive products should not be provided access to the nonpublic materials.”<sup>4</sup>

As an initial matter, it is not clear that the information provided in USPS-LR-N2012-1/NP9 is entitled to non-public treatment. It appears that the information contained in this Library Reference pertains strictly to market dominant products; the non-competitive category of products. Furthermore, the Postal Service Application provides no rationale for preventing actual or potential customers from accessing this material or identification of the commercial harm that would result. In addition, this category of persons is so broad that it likely excludes all parties participating in this docket from accessing and assessing this information. Without conceding the merits of the contentions in the Postal Service Application, APWU agree that disclosure of commercial sensitive information to competitors could result in commercial harm to the Postal Service. Notwithstanding, APWU is not a competitor and poses no risk to the commercial success of the Postal Service.

APWU is the exclusive collective bargaining representative of postal employees in the clerk, maintenance, and motor vehicle service crafts nationwide. APWU also mails millions of letters, periodicals, and packages each year and APWU members and retirees make extensive use of postal products and services. The changes proposed in this docket could have a significant impact on APWU represented employees and on the APWU and its members as a large user of the mail. Accordingly, APWU has intervened and has been an active participant in this docket. APWU also intends to submit rebuttal testimony. Parties should be entitled to material that has direct bearing on the Postal Service’s conclusions and rationale in the Postal Service’s case to fully evaluate the Postal Service’s plan in this docket. We believe that the information presented in USPS-LR-N2012-1/NP9 will facilitate preparation of our rebuttal case, possible cross examination of postal witnesses and our arguments on brief at the conclusion on this case.

Furthermore, APWU representative, consultants and attorneys have already been granted access to information similar to that provided in USPS-LR-N2012-1/NP9. See

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<sup>4</sup> Id. at 5-6.

POR No. N2012-1/1 (December 14, 2011); POR No. N2012-1/2 (December 22, 2011); POR No. N2012-1/7 (January 20, 2012); POR No. N2012-1/8 (January 25, 2012); POR No. N2012-1/11 (February 7, 2012); POR No. N2012-1/12 (February 12, 2012); POR No. N2012-1/14 (February 21, 2012); POR No. N2012-1/18 (March 1, 2012); POR No. N2012-1/26 (March 14, 2012); POR No. 2012-1/32 (March 19, 2012).

There is limited time before parties are required to submit rebuttal testimony, therefore, APWU seeks immediate access to this information. APWU believes this is appropriate given the fact that access to non-public information has been routinely granted to the APWU without objection from the Postal Service. Moreover, APWU, through the undersigned counsel has conferred with counsel for the Postal Service and has been told the Postal Service has no objection to the below listed APWU representatives, attorneys and consultants accessing the material in USPS-LR-N2012-1/NP9.

In accordance with 39 CFR 3007.40(b), the following APWU representatives, consultants and attorneys have completed a Statement of Compliance with Protective Conditions Certification, found in Appendix A to Part 3007 of Title 39 of the Code of Federal Regulations, for Library Reference USPS-LR-N2012-1/NP17:

Kathryn Kobe,  
Director of Price, Wage and Productivity Analysis ECS, LLC  
Economic Consultant for American Postal Workers Union, AFL-CIO

Darryl J. Anderson, Esq.  
O'Donnell, Schwartz & Anderson, PC  
Counsel for the American Postal Workers Union, AFL-CIO

Jennifer L. Wood, Esq.  
O'Donnell, Schwartz & Anderson, PC  
Counsel for the American Postal Workers Union, AFL-CIO

Pierre Kacha  
Decision/Analysis Partners  
Consultant for American Postal Workers Union, AFL-CIO

Donald M. Baron  
Decision/Analysis Partners  
Consultant for American Postal Workers Union, AFL-CIO

Hunter Tammaro  
Decision/Analysis Partners  
Consultant for American Postal Workers Union, AFL-CIO

Kyle Stamper  
Decision/Analysis Partners  
Consultant for American Postal Workers Union, AFL-CIO

A copy of each Certification is attached hereto. The original Certifications will be promptly filed with the Commission. Persons identified by the Postal Service pursuant to Section 3007.2(c) have also been provided with a copy of this Motion today by email.

As stated above, Counsel for APWU has conferred with Postal Service counsel and has been told that the Postal Service has no objection to the above named individuals accessing the materials contained in USPS-LR-N2012-1/NP9. Thus, APWU requests that the Commission waive the normal three-day waiting period required to allow the Postal Service to object and grant immediate access to USPS Library Reference N2012-1/NP9 to the above named individuals.

### **Conclusion**

For the forgoing reasons, APWU respectfully requests that access to Library References USPS-LR-N2012-1/NP9 be immediately granted to the above named individuals.

Respectfully submitted,

Jennifer L. Wood  
Counsel for American Postal Workers Union, AFL-CIO